

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest	)	MEMORANDUM DECISION
of T.S. and S.S., persons	)	(Not For Official Publication)
under eighteen years of age.	)	
_____	)	Case No. 20050568-CA
	)	
A.S.,	)	F I L E D
	)	(January 12, 2006)
Appellant,	)	
	)	2006 UT App 11
v.	)	
	)	
State of Utah,	)	
	)	
Appellee.	)	

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Third District Juvenile, Salt Lake Department, 450825  
The Honorable Robert S. Yeates

Attorneys: Jeffrey J. Noland, Salt Lake City, for Appellant  
Mark L. Shurtleff and John M. Peterson, Salt Lake  
City, for Appellee  
Martha Pierce and Tracy S. Mills, Salt Lake City,  
Guardians Ad Litem

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Before Judges Bench, Greenwood, and Billings.

PER CURIAM:

A.S. appeals the termination of her parental rights in T.S. and S.S. A.S. challenges certain findings made by the juvenile court and alleges that the evidence is insufficient to support the juvenile court's determination that termination of her parental rights was in the children's best interests. We affirm.

We will overturn the factual findings in a parental rights proceeding only if the findings are clearly erroneous. See In re D.G., 938 P.2d 298, 301 (Utah Ct. App. 1997). Furthermore, to successfully appeal a trial court's findings of fact, "[attorneys] must extricate [themselves] from the client's shoes and fully assume the adversary's position. In order to properly discharge the [marshaling] duty . . . , the challenger must

present, in comprehensive and fastidious order, every scrap of competent evidence introduced at trial which supports the very findings the appellant resists." Oneida/SLIC v. Oneida Cold Storage & Warehouse, 872 P.2d 1051, 1052-53 (Utah Ct. App. 1994) (alterations in original) (quoting West Valley City v. Majestic Inv. Co., 818 P.2d 1311, 1315 (Utah Ct. App. 1991)).

A.S. fails in her marshaling obligation. A.S. attacks certain findings regarding the Brookshires and their suitability as foster parents, as well as the juvenile court's general finding that "it is in the best interest of [T.S. and S.S.] to have their biological mother's rights terminated at this time." Concerning the findings relating to the Brookshires, A.S. asks that we simply disregard the testimony of Lucy Kelly. However, the trial court is "'in the best position to assess the credibility of witnesses,'" and for this reason we defer to the trial court when conflicting evidence is presented. Lefavi v. Bertoch, 2000 UT App 5, ¶20, 994 P.2d 817 (quoting State v. Pena, 869 P.2d 932, 936 (Utah 1994)). Additionally, A.S. completely disregards other testimony and factual findings which led the court to conclude that termination was in the best interests of the children.

A.S. also argues that the evidence presented at trial was insufficient to support the trial court's conclusions that termination of her parental rights was in the children's best interests. However, A.S. fails to challenge the thirty-nine factual findings pertaining to parental fitness and competence, and challenges only six of the twelve findings relating to the best interests of the children.

After reviewing the unchallenged factual findings, we conclude that there is sufficient evidence to support the juvenile court's conclusions of unfitness and that termination was in the children's best interests. For example, the juvenile court found that T.S. and S.S. "have been involved in multiple life-threatening situations while in the care of [A.S.]." Further, the court found that A.S. "needs psychotherapy but is a poor candidate for treatment," "is unable to adequately care for and meet the ongoing needs of her children," "can't put her children's needs ahead of her own," "can't be trusted to keep her children out of harm's way," and "does not have the wherewithal to provide adequate care and supervision for her children." As a result, the court found that A.S. "poses a grave risk of harm to the health, safety, and welfare of the children" and that

termination of A.S.'s parental rights was in the children's best interests.

Accordingly, we affirm the juvenile court's order terminating A.S.'s parental rights.

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Russell W. Bench,  
Presiding Judge

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Pamela T. Greenwood,  
Associate Presiding Judge

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Judith M. Billings, Judge